IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 9229 of 2005(W)

OPMV.1067/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PUNALUR

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PETITIONER:

A.SUKUMARAN NAIR, HOUSE NO.234,
PTP NAGAR, THIRUVANANTHAPURAM.

BY ADV. SRI.R.MANOJ

RESPONDENTS:

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1. S.PRADEEP KUMAR, KIZHIVILA VEEDU,
VELLANADU, NEDUMANGADU.

2. RAMAKRISHNAN,
S/O. BHAGAVATHY, PUTHUVAL PUTHEN VEEDU,
PATTOM, THIRUVANANTHAPURAM.

3. NEW INDIA ASSURANCE COMPANY LTD.,
IIND FLOOR, K.M.MATHEW BUILDING,
CHANDHARI AMMAN COIL ROAD,
THIRUVANANTHAPURAM.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 9229 OF 2005

Dated this the 5th day of July, 2007

JUDGMENT

Heard Sri.Manoj R. Nair, counsel for the petitioner and Sri.Thomas Mathew Neelimoottil, counsel for the Insurance Company. Thus the prayers in the writ petition are reasonable Ext.P2 certificate relied on by the petitioner is issued by the Insurance Company. Its genuineness is not in dispute. Ext.P1 is the award of the MACT. At Paragraph 7 of Ext.P1, it is stated as follows:

> "The estimated amount payable to the insured is shown as Rs.24,557.14 whereas the total estimated amount is Rs.39,028.76. So, the insurer of the car might have paid the amount permissible under the estimate and the petitioner is entitled to claim only the balance amount. The balance would come to Rs.14,471.62."

Review of that part of Ext.P1 was sought for by the petitioner who filed IA No.3421 of 1998 and IA No.3237 of 2000. IA No.3237 of 2000 was an application for re-opening the Original Petition and IA No.34281 of 1998 was a regular application for review. Under Ext.P4 the learned MACT has noticed that IA No. 3237 stands disposed of and that the explanation offered by the petitioner for reviewing the order is not satisfactory.

Having regard to the submission of Mr.Manoj R.Nair, counsel for

the petitioner and taking into account the circumstances that the Insurance Company does not dispute the genuineness and authenticity of Ext.P2 certificate, I am of the view that the learned MACT should take into account Ext.P2. Accordingly, I set aside Ext.P4 and direct MACT to re-consider IA No.3421 of 1998 (not withstanding the decision earlier taken on IA No.3237 of 2000) in the light of Ext.P2. It is needless to mention that MACT shall take fresh decision on the review petition with notice to the respondents only.

The Writ Petition is allowed as above. No costs.

PIUS C. KURIAKOSE, JUDGE

btt